



June 8, 2020

VIA ECF

The Hon. Vernon S. Broderick
United States District Judge
Thurgood Marshall
United States Court House
40 Foley Square
New York, New York 10007

Re: *Stanley Johnson, et al. v. M.A.C. Cosmetics, Inc., et al.*
Case No.: 18-cv-09157 - Joint Pre-Motion Discovery Letter

Dear Judge Broderick:

Pursuant to the Court's May 8, 2020 Order (Dkt. No. 56), the parties submit the following Joint Status Report.

Status Conference

On May 8, 2020, the Court ordered the Parties file a joint status report within thirty (30) days summarizing the status of discovery and any anticipated motion practice in advance of the status conference. The parties most recently have been focused on attempting to resolve this matter.¹ Defendants have provided settlement offers to all opt-ins and Plaintiffs are in the process of reviewing and responding to those offers. The parties have made settlement negotiations a priority in an attempt to avoid litigating this matter further. Accordingly, as requested in the May 8, 2020 order, the parties wish to be referred to the Magistrate Judge at this time to assist the parties with settlement negotiations.

Status of Pleadings:

On October 5, 2018, Plaintiffs filed their Complaint. Dkt. No. 1. Defendants provided an answer to the Complaint on December 12, 2018. Dkt. No. 16. There have been no other pleadings entered on the docket.

Status of Discovery:

A. Class Communication :

On December 6, 2019, Judge Broderick ordered the Defendants to produce to Plaintiffs all employee contact information for all non-exempt assistant managers, employed in all locations nation-wide on a rolling basis beginning with New York City.

¹ Plaintiff Stanley Johnson filed a lawsuit in the Eastern District of New York. Discovery in that matter is being overseen by Magistrate Lois Bloom. Magistrate Bloom has conducted a number of settlement conferences aimed at resolving all of Plaintiff Johnson's claims, including the instant litigation.



On February 10, 2020, Defendants produced all New York City non-exempt, assistant manager contact information to Plaintiffs. Defendants sent a subsequent production on February 28, 2020 including contact information for all non-exempt assistant managers in New York State. Finally, on March 10, 2020, Defendants produced the remaining contact information for nation-wide, non-exempt, assistant managers employed by Defendants during the relevant time period.

Since receiving this information, Plaintiffs have contacted many of the individuals provided by Defendants. In fact, in addition to the named plaintiff who originally filed suit against Defendants, eleven (11) others have opted-in.

With the additional opt-in plaintiffs residing from locations across the United States, Plaintiffs plan to move for Class Certification. At this juncture, Defendants intend on objecting to nationwide collective action certification.

B. Depositions:

While the parties have been focusing on settlement, they also have been engaged in ongoing meet and confers regarding the scheduling of depositions for Defendants corporate designee(s) pursuant to Federal Rule of Civil Procedure 30(b)(6), and employee percipient witnesses. Likewise, the Parties continue to meet and confer regarding the scheduling of Plaintiffs' depositions. On March 19, 2020 the parties entered a joint letter requesting that fact discovery be extended to June 23, 2020 from March 23, 2020 due to the disruptions caused by the COVID-19 pandemic. At the time, the lingering effects in the legal system caused by the pandemic were unknown. As a result of the extended lingering disruptions, as well as the parties' real efforts at settlement negotiations, the parties now jointly request an additional extension until November 23, 2020 to complete fact discovery.

Case Schedule:

On May 8, 2020, the Court requested the parties meet and confer, and enter a Joint Status Report summarizing the status of discovery. (Dkt. No. 56). The parties will continue to meet and confer regarding a proposed discovery schedule following the Court's order on the Plaintiff's Motion for Class Certification, agreed to be filed on or before August 31, 2020.

We are available to discuss these issues at the Court's convenience.

Respectfully submitted,

/s/ Salvatore C. Badala

/s/ Wendy J. Mellke